

Supreme Courts Title VII Ruling: What it Means for Your Business

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In a landmark decision today, the U.S. Supreme Court ruled that employees cannot be fired based on gay or transgender status.

The Court ruled that it is a violation of Title VII of the Civil Rights Act of 1964 to discriminate based on sexual orientation or gender identity. Title VII prohibits sex discrimination.

This ruling is a major shift in the employment law landscape as employers are now prohibited from discriminating against LGBTQ employees and those who do so are subject to Title VII's remedies for violations. This shift will result in additional discrimination suits based on LGBT status.

In order to comply with the law and defend against discrimination suits, employers should:

- Communicate with employees and create a work culture and environment for employees that encourages diversity and discourages employment discrimination in any form.
- Adopt a strong anti-harassment policy which complies with the Court's ruling so that there is a clear explanation of what is prohibited, a complaint procedure that provides multiple, accessible avenues of complaint; assurance that the employer will protect the confidentiality of complaints to the extent possible; a complaint process that provides a prompt, thorough, and impartial investigation; and assurance that the employer will take immediate and appropriate corrective action when it determines that harassment has occurred.
- Update employee handbooks and ensure that all employees are aware what the law prohibits
- Periodically train each employee on its contents, and vigorously follow and enforce it. Provide periodic training to managers and employees on nondiscrimination, harassment, and retaliation policies and enforce such policies equitably.

This case is grounded in the statutory interpretation of what "based on sex" means under of Title VII, which offers broad language making it illegal to terminate an employee based on their sex. Justice Neil Gorsuch stated that the statute was clear and wrote "it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex." The Supreme Court's decision considered and compared the Civil Rights Act's interpretation of the prohibition against discrimination on the basis of motherhood and the act's ban on the sexual harassment of male employees.

This 6-3 decision comes from a consolidated ruling on a trio of cases asking whether Title VII prohibits employment discrimination based on lesbian, gay, bisexual and transgender status. Lower appellate federal courts have disagreed

on whether the same protections should apply to people based on their sexual orientation and gender identity.

If you have questions about this Supreme Court ruling and how it can affect your company, please [contact me](#) or any member of the [Barley Snyder Employment Practice Group](#).